DOCKET NO. 14-57

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REDACTED – FOR PUBLIC INSPECTION

June 5, 2014

VIA HAND DELIVERY AND ELECTRONIC FILING

Accepted/Filed

JUN - 5 2014

FCC Office of the Secretary

Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: **REDACTED – FOR PUBLIC INSPECTION**
In the Matter of Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Transfer Control of Licenses and Authorizations, MB Docket No. 14-57

Dear Ms. Dortch:

On behalf of Comcast Corporation ("Comcast") and Charter Communications, Inc. ("Charter") (together, the "Applicants"), and in accordance with the Joint Protective Order adopted in this proceeding,[1] enclosed please find two (2) copies of the fully redacted exhibits submitted to the Commission yesterday along with the license applications for the transfer of cable systems from Charter to Comcast as part of an exchange of systems between the companies.[2] These redacted exhibits include: (1) the public interest statement, and (2) the supplemental economic analysis prepared by Dr. Gregory L. Rosston and Dr. Michael D. Topper. The **{{ }}** symbols denote where Highly Confidential Information has been redacted, and the **[[ ]]** symbols denote where Confidential Information has been redacted. Also enclosed is a CD-ROM that contains the redacted versions of these exhibits.

Highly Confidential versions of the exhibits are being filed simultaneously with the Office of the Secretary under separate cover pursuant to the Joint Protective Order. The Confidential and Highly Confidential versions of this filing will be made available pursuant to the terms of the Joint Protective Order.

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1 *In the Matter of Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Transfer Control of Licenses and Authorizations*, MB Docket No. 14-57, Joint Protective Order, DA 14-463 (Apr. 4, 2014) ("Joint Protective Order").

2 This exchange is one of three divestiture transactions between the Applicants whereby Comcast will divest systems resulting in a net reduction of approximately 3.9 million residential video customers following, and contingent upon, regulatory approval and closing of Comcast's transaction with Time Warner Cable Inc. Applicants have also submitted the license applications and related public interest statements for the other divestiture transactions.

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Please contact us with any questions regarding this matter.

Respectfully submitted,

Francis M. Buono

Francis M. Buono
Counsel for Comcast Corporation

Sam Feder by MS

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Counsel for Charter Communications, Inc.

Enclosures

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PUBLIC INTEREST STATEMENT

By these applications, and pursuant to Sections 214(a) and 310(d) of the Communications Act, Comcast Corporation ("Comcast") and Charter Communications, Inc. ("Charter") (collectively, "Applicants") request the consent of the Federal Communications Commission to transfer licenses from Charter to Comcast as part of an exchange of cable systems between the Applicants (the "Exchange Transaction").

As set forth below and detailed in the enclosed economic analysis prepared by Drs. Rosston and Topper, the Exchange Transaction will generate significant benefits for residential and business customers, and will do so without causing any countervailing harms.[1] In particular, this transaction will enhance the geographic rationalization of Comcast's cable systems and create other efficiencies, which will result in substantial public interest benefits for consumers and businesses. Drs. Rosston and Topper find that the Exchange Transaction will not disturb their prior conclusions regarding the substantial benefits and lack of harms from the Comcast-Time Warner Cable Inc. ("TWC") transaction,[2] and will, in fact, enhance several of those benefits. Because the Exchange Transaction is strongly in the public interest, convenience, and necessity, Applicants respectfully request that the Commission approve this transaction expeditiously, along with the two other transactions between Charter and Comcast noted below (collectively, the "Divestiture Transactions") and the Comcast-TWC transaction.

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1 Supplemental Declaration of Dr. Gregory L. Rosston and Dr. Michael D. Topper ¶¶ 5-6 (June 4, 2014) ("Rosston/Topper Supplemental Decl.").

2 *See* Application and Public Interest Statement of Comcast Corporation and Time Warner Cable Inc., MB Docket No. 14-57 (Apr. 8, 2014) ("Comcast-TWC Public Interest Statement"), Exhibit 5, Declaration of Dr. Gregory L. Rosston and Dr. Michael D. Topper ("Rosston/Topper Decl.").

I. DESCRIPTION OF THE TRANSACTION

A. The Applicants

1. Comcast

Comcast Corporation is a global media and technology company with two primary businesses – Comcast Cable and NBCUniversal – and approximately 136,000 employees. Comcast's network facilities cover portions of 39 states and the District of Columbia. Comcast Cable is a leading provider of video, high-speed Internet, digital voice, and other next-generation services and technologies to millions of residential customers and small- and medium-sized businesses. Comcast currently owns and operates cable systems serving approximately 22.6 million video customers, including residential and business customers. It also delivers high-speed Internet service to approximately 21.1 million customers, including residential and business customers. Using VoIP technology, Comcast provides facilities-based voice services to deliver digital-quality phone service to approximately 10.9 million customers, including residential and business customers. Comcast also owns NBCUniversal, a global media, news, and entertainment company that operates the NBC and Telemundo broadcast television networks, national and regional cable networks, and local NBC and Telemundo broadcast stations, in addition to film and television production studios, theme parks, and online services.[3]

2. Charter

Charter Communications, Inc. is a Delaware corporation, headquartered in Stamford, Connecticut, whose shares are publicly traded on the NASDAQ Global Select Market. Charter operates in 29 states, employs more than 21,000 people, and provides traditional cable video

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3 *See* Comcast-TWC Public Interest Statement at 7-13 (providing a detailed description of Comcast).

services (basic and digital), advanced video services, high-speed Internet services, and voice services to more than 6 million residential and business customers.

Charter serves approximately 4.2 million residential video customers – 93 percent of whom subscribe to digital video service. Charter also serves approximately 4.5 million residential Internet customers and provides advanced voice services to approximately 2.3 million residential customers. Charter Business, which has approximately 581,000 commercial primary service units, provides scalable, tailored communications solutions, including advanced video services, broadband Internet access, business voice services, data networking, and "last-mile" fiber connectivity to cellular towers and office buildings.

3. <u>The Proposed Transaction</u>

As part of an exchange between the Applicants, Comcast will acquire Charter systems serving approximately 1.6 million video customers in Alabama, California, Connecticut, Georgia, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Oregon, Tennessee, Texas, Vermont, Virginia, and Washington.[4] This Exchange Transaction is one of the Divestiture Transactions, pursuant to which Comcast will divest systems resulting in a net reduction of approximately 3.9 million residential video customers. The Divestiture Transactions are contingent upon, and will follow, regulatory approval and closing of the

[4] Such system exchange transactions are common in the cable industry. *See, e.g., Applications for Consent to the Assignment and/or Transfer of Control of Licenses Adelphia Commc'ns Corp. to Time Warner Cable Inc. et al.*, Memorandum Opinion & Order, 21 FCC Rcd. 8203 ¶ 12 (2006) ("*Adelphia Order*") (approving the exchange of cable systems in multiple states between Comcast and Time Warner); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Tenth Annual Report, 19 FCC Rcd. 1606 ¶ 133 (2004) (reporting that between July 2002 and December 2002, cable system exchanges occurred between Mediacom and U.S. Cable Corp., Insight and AT&T, and CableOne and Time Warner); *Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming*, Fourth Annual Report, 13 FCC Rcd. 1034 ¶ 32 (1998) (reporting that 10 transactions involving cable system exchanges occurred in 1995, 8 occurred in 1996, and 11 occurred between January and June of 1997). A list of designated market areas ("DMAs") and communities involved in the Exchange Transaction is provided in **Appendix A.**

Comcast-TWC transaction.[5] Applicants request that the Commission consider and process these applications contemporaneously with the Comcast-TWC transaction applications in a single pleading cycle.[6]

II. THE EXCHANGE TRANSACTION WILL GENERATE SUBSTANTIAL PUBLIC INTEREST BENEFITS AND WILL CAUSE NO PUBLIC INTEREST HARMS.

The Commission will approve a transfer of control of authorizations and licenses connected with a proposed transaction under Sections 214(a) and 310(d) of the Act if the proposed transaction does not violate a statute or rule, and if, after weighing "the potential public interest harms of the merger against any potential public interest benefits," the Commission concludes that, "on balance," the transfer "serves the public interest, convenience, and necessity."[7] The proposed Exchange Transaction meets this standard, and Applicants respectfully request that the Commission grant the applications expeditiously.

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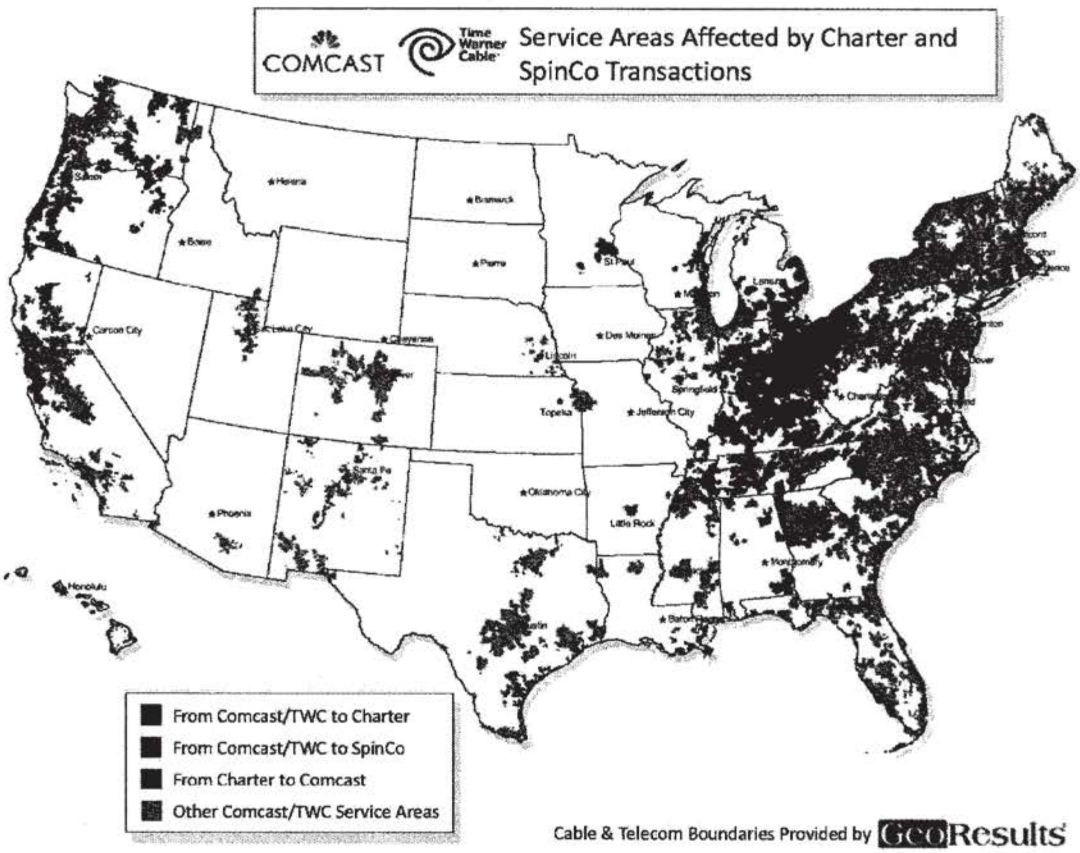
5 The agreement between Comcast and Charter will be executed through three separate transactions. *First*, Comcast will sell former TWC systems serving approximately 1.5 million video customers directly to Charter. *Second*, Charter and Comcast will exchange cable systems serving approximately 1.5 million former TWC video customers for cable systems serving approximately 1.6 million Charter video customers. *Third*, Comcast will form and spin off to its shareholders a new, independent publicly traded cable company ("SpinCo") that will operate systems serving approximately 2.5 million legacy Comcast video subscribers. This public interest statement addresses the benefits flowing from the transfer of Charter cable systems to Comcast as a result of the Exchange Transaction. The benefits to Charter from the Exchange Transaction and sale of systems and the benefits of the spin-off to SpinCo are addressed in separate public interest statements. *See* Public Interest Statement of Charter Communications, Inc. and Comcast Corporation, Comcast-to-Charter Exchange and Sale Transactions, MB Docket No. 14-57 ("Comcast-to-Charter Sale/Exchange Public Interest Statement"); Public Interest Statement of SpinCo, Charter Communications, Inc., and Comcast Corporation, Spin Transaction, MB Docket No. 14-57 ("SpinCo Public Interest Statement").

6 Applicants note that the Commission has not issued the Public Notice for the Comcast-TWC transaction in light of an earlier such request. *See* Letter from Kathryn A. Zachem, Comcast, to Marlene H. Dortch, FCC, MB Docket No. 14-57, at 1 (Apr. 30, 2014); Letter from Kathryn A. Zachem, Comcast, to Marlene H. Dortch, FCC, MB Docket No. 14-57, at 3 (May 7, 2014).

7 *See, e.g.*, *Applications Filed for Transfer of Control of Insight Commc'ns Co. to Time Warner Cable Inc.*, Memorandum Opinion and Order, 27 FCC Rcd. 497 ¶ 7 (2012) ("*Insight-TWC Order*"); *Adelphia Order* ¶ 23.

A. The Exchange Transaction Will Produce Substantial Public Interest Benefits.

As illustrated in the map below, by combining Charter's transferred systems with Comcast's retained systems (including systems to be acquired from TWC), the Exchange Transaction will fill in contiguous service areas in Comcast's post-TWC transaction footprint in certain regions. Notably, after the TWC transaction and Divestiture Transactions, the combined company will have a more extensive footprint primarily in California, Georgia, New England, New York, North Carolina, Oregon, Tennessee, Texas, Virginia, and Washington.



These enhancements to the geographic contiguity of Comcast's cable systems – together with an expanded national presence following the Comcast-TWC transaction – will produce economies of scale and scope and other efficiencies for Comcast, which will ultimately redound to the benefit of Comcast's residential and business customers. Furthermore, the Exchange Transaction will allow customers in the acquired Charter systems to realize the demonstrated public interest benefits that will arise from the Comcast-TWC transaction.[8]

1. Benefits of Improved Geographic Rationalization from the Exchange Transaction

The Commission has repeatedly recognized that contiguous regional service areas can (1) "increase economies of scale and size, and thus enable cable operators to offer an increased variety of broadband services at reduced prices to customers in geographic areas that are larger than single cable franchise areas"; (2) "make cable operators more effective competitors to LECs whose local service areas are usually much larger than a single [cable] franchise area"; and (3) "provide a means of improving efficiency, reducing costs, and attracting increased advertising."[9] The Federal Trade Commission has likewise concluded that efficient geographic footprints "enable[] cable firms to realize economies of scale associated with providing cable service in contiguous areas" and "lower several categories of costs, such as management, administrative and marketing costs, as well as the expense of providing system upgrades."[10] Creating more contiguous, comprehensive footprints also better positions cable companies "to

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8 *See* Comcast-TWC Public Interest Statement at 20-126.

9 *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Thirteenth Annual Report, 24 FCC Rcd. 542 ¶ 180 (2009); *see also TWC-Insight Order* ¶ 24; *Adelphia Order* ¶¶ 271, 276 ("[T]o the extent that the transactions, through clustering or through the proposed upgrades and deployment schedules, result in the addition of competitive, facilities-based telephony service in Adelphia service areas or to unserved areas where Applicants currently operate cable systems, we find that consumers could benefit."); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Eighth Annual Report, 17 FCC Rcd. 1244 ¶ 14 (2002); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Seventh Annual Report, 16 FCC Rcd. 6005 ¶ 153 (2001).

10 *Sports Programming and Cable Distribution: The Comcast/Time Warner/Adelphia Transaction: Hearing Before the S. Comm. on the Judiciary*, 109th Cong. 4 (2006) (statement of Michael Salinger, Dir. Bureau of Economics, Federal Trade Commission), *available at* http://www.ftc.gov/sites/default/files/documents/public_statements/prepared-statement-federal-trade-commission-sports-programming-and-cable-distribution/p052103sportsprogrammingandcabledistributiontestimonysenate12062006.pdf.

compete with local telephone companies and other providers in the delivery of video and telephone service."[11]

The Exchange Transaction will produce these same efficiencies for Comcast and will drive numerous benefits for residential and business customers:

Benefits for Residential Customers. By filling in gaps in Comcast's regional service footprint, the Exchange Transaction will create efficiencies that will facilitate (1) accelerated deployment of innovative services and improvements in network reliability; (2) improved Wi-Fi access; and (3) better, more efficient customer service.

First, deploying advanced services to customers – such as the X1 platform and DVR with cloud technology, DOCSIS 3.1, and faster broadband speeds – requires network infrastructure upgrades, which entail large fixed cost investments at the regional level. As Drs. Rosston and Topper note, an expanded, contiguous regional presence allows Comcast to better leverage its investments in local network infrastructure – such as video-on-demand and high-speed data infrastructure and other equipment – and makes additional investment more likely. This in turn supports increased and/or more accelerated provision of advanced services to systems that previously may not have been large enough to justify such investment. Customers in these systems will benefit from more advanced services deployed more quickly than they would be absent the Exchange Transaction.[12] Moreover, increased investment in network infrastructure and upgrades should ultimately help improve network reliability.[13]

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11 *Id.*

12 Rosston/Topper Supplemental Decl. ¶¶ 10-11.

13 *See* Comcast-TWC Public Interest Statement at 71-72.

Second, the Exchange Transaction will provide Comcast with even greater incentives to invest further in its already robust Xfinity WiFi network in the regions where Comcast is filling in its footprint.[14] Charter has not deployed a public Wi-Fi network, but Comcast has made this a priority and is likely to deploy additional Wi-Fi hotspots in these regions. As a result of the Exchange Transaction, therefore, customers across Comcast's expanded service area will enjoy more ubiquitous Wi-Fi coverage.[15]

Third, enhanced geographic rationalization as a result of the Exchange Transaction will mean that Comcast should be able to deploy customer service centers, retail stores, and truck fleets in more central locations and thus potentially closer to its customers, enabling Comcast to provide better, more convenient customer service at lower costs.[16]

Benefits for Business Customers. Comcast's greater presence in several regional markets will enhance Comcast's ability to compete with incumbent local exchange carriers ("ILECs") and serve regional, super-regional, and enterprise businesses located in these markets through increased investment and deployment of advanced broadband facilities and services. As detailed in the Comcast-TWC Public Interest Statement, geographic constraints have hindered Comcast, TWC, and other cable companies from competing effectively against the large ILECs with the scale and scope to service larger business customers that have multiple office locations

14 Comcast currently has over one million Wi-Fi hotspots across the United States and plans to reach eight million hotspots by the end of 2014. Press Release, Comcast Corp., Comcast to Reach Eight Million Xfinity WiFi Hotspots in 2014 (Apr. 30, 2014), http://corporate.comcast.com/news-information/news-feed/comcast-to-reach-8-million-xfinity-wifi-hotspots-in-2014.

15 Rosston/Topper Supplemental Decl. ¶ 18. As Drs. Rosston and Topper previously explained, a Wi-Fi network becomes more valuable as it becomes more widespread. Rosston/Topper Decl. ¶ 96.

16 Rosston/Topper Supplemental Decl. ¶ 12.

spanning various regions.[17] For such customers, the only alternative to an ILEC is to rely on an "aggregator" that cobbles together multiple providers' offerings across many regions. This approach can create coordination problems given technical differences among different providers' networks, as well as other issues associated with multiple points of contact for customer service and technical assistance.[18] Drs. Rosston and Topper explain that, by expanding the regional geographic reach and increasing the regional density of Comcast's network – for example, in California, New England, Oregon, and Washington – the Exchange Transaction will enable Comcast to serve more of the businesses with locations concentrated in these regions "on net" (i.e., within its network). This will bring much-needed competition to the business services market and also translate into lower prices (through reduced costs and the elimination of double marginalization) and higher quality service for business customers.[19]

Marketing Efficiencies. The Exchange Transaction will also enable Comcast to more efficiently and effectively market its innovative services to potential residential and business customers on a regional level, thereby fostering competition among providers, such as AT&T and Verizon, that have a strong presence in many of these regions. Where gaps exist in its service footprint, Comcast sometimes lacks sufficient regional scale to make it practical to buy advertising on broadcast television or other regional advertising platforms, because doing so would mean paying to advertise in areas where the company does not operate. In these circumstances, Comcast relies on more expensive or less effective digital and direct mail

[17] Comcast-TWC Public Interest Statement at 90-92.

[18] *Id.*

[19] Rosston/Topper Supplemental Decl. ¶¶ 15-17. While the Comcast-TWC transaction will expand Comcast's footprint, which is an important factor in competing more meaningfully in the business services market, ensuring a comprehensive presence within the served regions is equally important, especially for regional and super-regional businesses. *See* Rosston/Topper Decl. ¶¶ 122-31; Comcast-TWC Public Interest Statement at 92-94.

advertising that requires separate ad campaigns, which drive up costs for creative production and agency fees. Charter has faced similar advertising challenges in such areas. Increasing Comcast's footprint within DMAs and bringing these more isolated Charter systems into Comcast's fold will ameliorate this problem and allow Comcast to advertise on unified regional platforms that will reach potential subscribers more efficiently, without the need for separate, more costly ad campaigns.[20] To the extent that these efficiencies reduce Comcast's costs, those savings will benefit Comcast's residential and business customers in various ways.

2. Benefits to Acquired Systems from the Comcast-TWC Transaction

In addition to the benefits that will flow from improvements in Comcast's regional presence as a result of the Exchange Transaction, customers in the acquired Charter systems will also enjoy the following key benefits, among others, that will arise from the Comcast-TWC transaction:

- ***Greater Investment in, and Deployment of, Industry-Leading Products and Services***. Customers in the acquired Charter systems will enjoy some of the industry's fastest broadband speeds, expansive Wi-Fi options, next-generation video technologies and services (including Comcast's cutting-edge X1 platform and DVR with cloud technology), a robust and ever-growing Video On-Demand ("VOD") library and TV Everywhere experience, service innovations like self-installation options and a focus on network reliability and customer service, and advanced voice services.[21] To be sure, Charter has exciting technology deployment and innovation plans, but Comcast is eager to bring its own vision to these new areas, especially those acquired markets that currently are adjacent to Comcast systems but may be too small on their own to justify the significant investment required to deploy the full suite of innovative services offered in larger markets. In addition, the increased scale, greater geographic reach, and

[20] Rosston/Topper Supplemental Decl. ¶¶ 13-14. Even where it already makes business sense for Comcast, TWC, or Charter to advertise service on local broadcast television (e.g., TWC in greater Los Angeles), the additional regional subscribers resulting from the Exchange Transaction (e.g., Charter subscribers in the greater Los Angeles area) will make that regional advertising more effective and efficient. *See id.*; *see also* Comcast-TWC Public Interest Statement, Exhibit 4, Declaration of Michael J. Angelakis ¶ 19 (describing the benefits of denser geographic coverage).

[21] Comcast-TWC Public Interest Statement at 28-66.

synergies afforded by the Comcast-TWC transaction will provide the combined company with greater ability to invest in and deploy even more advanced broadband, video, and voice services in the acquired TWC and Charter systems.[22]

- ***Enhanced Competition and Choice for Business Customers***. As noted above, the Comcast-TWC transaction, along with more contiguous regional footprints from the Exchange Transaction, will also spur competition in the business services sector. Improved economies of scale and scope – both at the national and regional level – following the transactions will better position Comcast to drive fiber and other high-speed capacity technology into its network and to build out Metro Ethernet in order to meet the needs of larger businesses. These efficiencies also will allow the combined company to offer better options, lower prices, and higher quality service to businesses of all sizes, particularly those regional, super-regional, and enterprise businesses – including those with a near-national presence – with offices located throughout the acquired Charter and TWC systems and Comcast's existing footprint.[23] In addition, it will strengthen Comcast's ability to be a significant option in the competitive wireless backhaul market.[24]

- ***Next-Generation Advertising Technologies***. The Comcast-TWC transaction will enable Comcast to compete more effectively in the advertising marketplace by accelerating the expanded deployment and adoption of advanced advertising technologies and platforms, such as VOD dynamic ad insertion and addressable advertising.[25] These developments will translate into real benefits not only for advertisers and programmers, but also for consumers, including former Charter customers served by the systems coming to Comcast in the Exchange Transaction, by encouraging programmers to make additional content available on VOD and other platforms.[26]

- ***Other Public Interest Benefits***. The Comcast-TWC transaction will also extend a variety of other public interest benefits, including benefits resulting from the extension of conditions and commitments from the NBCUniversal transaction. These include the

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22 Comcast-TWC Public Interest Statement at 23-28.

23 Although the combined company will no longer serve systems (including legacy TWC systems) in Minnesota and Wisconsin and will have a greatly reduced or *de minimis* remaining presence in Alabama, Indiana, Kentucky, Michigan, and Ohio following the Divestiture Transactions (meaning that businesses with locations in these areas will not be served on the combined company's network), the Divestiture Transactions at the same time significantly strengthen Comcast's ability to serve the regional, super-regional, and enterprise customers in its footprint because it will fill in gaps within the regions it continues to serve. *See* Rosston/Topper Supplemental Decl. ¶ 15.

24 Comcast-TWC Public Interest Statement at 85-98.

25 As Drs. Rosston and Topper note, the Exchange Transaction will not only accelerate the deployment of addressable advertising to the acquired Charter systems, but also provide advertisers with a larger pool of customers to target in certain regions. Rosston/Topper Supplemental Decl. ¶ 19.

26 Comcast-TWC Public Interest Statement at 100-06.

Open Internet protections and standalone broadband offerings, as well as Comcast's commitment to its *Internet Essentials* broadband adoption program, and to diversity, accessibility, and cybersecurity.[27]

It bears emphasis that Drs. Rosston and Topper find that the Divestiture Transactions do not alter their conclusions regarding the benefits of the Comcast-TWC transaction.[28] Rather, they conclude that the increased scale and near-national presence afforded by the Comcast-TWC transaction will remain after the Divestiture Transactions, and, particularly when combined with the more contiguous (and efficient) regional service areas following the Divestiture Transactions, will enable the combined company to better serve its customers and be a more effective competitor than would a company with slightly more subscribers but a fragmented presence in more states.[29]

B. The Exchange Transaction Will Result in No Public Interest Harms.

The Exchange Transaction raises no competitive concerns and poses no harm to the video, voice, or Internet services market. As Drs. Rosston and Topper conclude, Comcast's enhanced regional presence in certain geographic areas following the Exchange Transaction will not reduce competition in any relevant market and, in particular, will not cause competitive harm to the markets for video distribution, video programming, or the sale of video advertising.[30]

No Reduction in Consumer Choice for Video, Voice, or Internet Service. Because Comcast, TWC, and Charter serve distinct geographic markets and do not compete today, there

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27 *Id.* at 59-66, 106-26.

28 Rosston/Topper Supplemental Decl. ¶ 5.

29 As Drs. Rosston and Topper note, their original analysis already assumed divestitures of systems serving three million subscribers. *See id.*

30 *Id.* ¶ 6. Drs. Rosston and Topper also conclude that the Exchange Transaction does not alter the prior conclusions in their initial declaration regarding the lack of competitive concerns from the Comcast-TWC transaction. *Id.*

will be no reduction in competitive choices for consumers or harm to the video, voice, or Internet service markets as a result of the Exchange Transaction.[31] The marketplace is highly competitive, and, post-transaction, consumers in the areas served by the acquired Charter systems will continue to have as many video, voice, and Internet providers to choose from as they do today.

No Vertical Integration Concerns. The Exchange Transaction poses no vertical integration concerns. In fact, Comcast will not acquire any additional national, Regional Sports Networks ("RSNs"), or broadcast programming assets and will actually *reduce* its programming interests as a result of the Divestiture Transactions. Specifically, Comcast will divest seven TWC and two Comcast local programming networks as part of the Divestiture Transactions,[32] and will obtain only three small local networks from Charter that are operated by the local cable systems Comcast will receive in the Exchange Transaction.[33]

No Harm to Video Distribution Market. The Exchange Transaction will not increase Comcast's ability or incentive to withhold or to demand higher prices for the retained Comcast-

[31] *See id.* ¶ 21. While Comcast, Charter, and TWC serve distinct markets, approximately 2,800 Comcast residential or small- or medium-sized business customers are located in zip+4 areas where Charter serves residential or small-business customers (and the number of Charter customers is similar). And there are approximately 1,500 TWC residential or small- or medium-sized business customers (and 790 Charter customers) located in zip+4 areas where Charter serves residential or small-business customers. These customers are scattered across various 5-digit-zip areas, none of which has more than 260 customers, and it is quite possible that Comcast and Charter (and TWC and Charter) are not even providing overlapping services in some of these fringe areas but rather just have facilities within the same zip+4 area. The overlap for all business services (Ethernet, backhaul, wholesale, voice, etc.), if any, is likely even lower. As Comcast noted, the Commission has previously recognized that such *de minimis* overlaps are no cause for competitive concern. *See* Comcast-TWC Public Interest Statement at 127 n.307.

[32] The seven TWC networks are (i) Time Warner Cable SportsChannel (Cincinnati/Dayton); (ii) Time Warner Cable SportsChannel (Cleveland/Akron); (iii) Time Warner Cable SportsChannel (Columbus/Toledo); (iv) Time Warner Cable Live Radar (Columbus); (v) Time Warner Cable Local Weather (Cleveland/Akron); (vi) Time Warner Cable SportsChannel (Milwaukee, Green Bay); and (vii) cn|2 (Kentucky). The two Comcast networks are the Comcast Television Network (Michigan) and Hoosier TV (Indiana).

[33] These three networks are (i) Charter TV3 in Worcester, MA; (ii) a local origination channel in the Northwest covering Walla Walla, Richland, Pasco, and Kennewick WA; and (iii) Channel 101/188 in California.

affiliated programming from rival MVPDs or OVDs. Following the Divestiture Transactions with Charter, Comcast will have approximately 29 million managed residential video customers – down from 33 million customers following the Comcast-TWC transaction – and its share of national MVPD customers will be approximately 29 percent. Decreasing Comcast's total number and national share of MVPD customers lessens any potential program access concerns from the Comcast-TWC transaction.[34]

Further, Comcast's enhanced regional presence in a handful of markets will not raise competitive concerns with respect to access to Comcast-affiliated O&O broadcast stations. The Exchange Transaction will lead to only modest increases in Comcast's share of subscribers within the footprints of certain NBC and Telemundo O&O stations (ranging from less than a [[ ]] percent increase for certain O&Os to [[ ]] percent for other O&Os).[35] As Drs. Rosston and Topper explain, serving these additional small numbers of subscribers will not increase Comcast's incentive to undertake a foreclosure strategy against rival MVPDs or OVDs. Even in areas where Comcast's share increase is approximately [[ ]] percent, such as in the footprints of the Los Angeles, Dallas-Ft. Worth, and Hartford-New Haven NBC O&Os, these increases do not raise program access concerns. A withholding strategy makes no economic sense for Comcast; it would result in lost licensing fees and advertising revenues, which would undermine the value of the O&O broadcast stations.[36]

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34 *See* Rosston/Topper Supplemental Decl. ¶ 36; Comcast-TWC Public Interest Statement at 6-7, 25 (assuming divestitures of three million subscribers).

35 Specifically, Comcast is acquiring Charter systems in the DMAs of 5 of the 10 NBC O&Os and in the DMAs of 7 of the 17 Telemundo O&Os. Rosston/Topper Supplemental Decl. ¶¶ 37, 42.

36 *Id.* ¶¶ 37-42.

Similarly, with respect to major league English-language RSNs that Comcast controls today or will control following the TWC transaction, the additional Charter systems that Comcast is acquiring will result in only a *de minimis* share increase of Comcast subscribers to all but arguably three such RSNs – Comcast SportsNet New England, Time Warner Cable SportsNet (in Los Angeles), and Comcast SportsNet Northwest.[37] As Drs. Rosston and Topper conclude, Comcast's increased subscriber share with respect to the first two RSNs (from {{ }} to {{ }} percent in New England, and {{ }} percent (TWC's current level) to {{ }} percent in Southern California) do not make a withholding strategy against rival MVPDs more plausible. And there can be no credible concern that Comcast's acquisition of the Charter subscribers to Comcast SportsNet Northwest will cause Comcast to "withhold" the network from other MVPDs, since most MVPDs that serve the territory have chosen not to carry the network, despite its availability to all. In any event, the Commission's program access rules and the program access conditions in the NBCUniversal transaction further mitigate any potential local or regional competitive concerns.[38]

No Increase in Market Power in Program Acquisition and No Program Carriage Concerns. The Exchange Transaction poses no competitive concerns regarding the acquisition or carriage of national or regional video programming. *First*, the Exchange Transaction will not

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37 Specifically, Comcast is acquiring Charter systems in the service areas of seven such Comcast-affiliated RSNs (one of which is also affiliated with TWC) and two such TWC-affiliated RSNs. Rosston/Topper Supplemental Decl. ¶ 43.

38 *Id.* ¶¶ 44-49. The NBCUniversal Conditions, which will apply to the acquired systems, provide MVPDs and OVDs the right to seek arbitration with respect to NBCUniversal RSNs, O&O broadcast stations, and NBCUniversal networks, in specific circumstances. *Applications of Comcast Corp., General Elec. & NBCUniversal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion & Order,* 26 FCC Rcd. 4238, App. A. § VII (2011). Notably, however, NBCUniversal has successfully reached comprehensive commercial agreements with multiple MVPDs over the last three years, and not a single MVPD has submitted a program access dispute for arbitration.

increase Comcast's market power or ability or incentive to act anticompetitively against unaffiliated national programming.[39] As noted above, following the Divestiture Transactions with Charter, Comcast's share of national MVPD customers will be approximately 29 percent, slightly lower than the just-below-30 percent national share that would result from the Comcast-TWC transaction.[40]

While Comcast will have an expanded presence in several large DMAs, such as New York, Los Angeles, and Dallas-Ft. Worth (DMAs in which Comcast was already acquiring a number of TWC subscribers), this added presence will not provide Comcast with any significant increase in program purchasing power.[41] Comcast and Charter do not compete for the purchase of programming in these DMAs, and, as such, the acquisition of certain Charter systems has no impact on the demand for programming (which, in any event, is a non-rivalrous good).[42] Thus, Comcast's slightly expanded presence in these DMAs does not alter competition and poses no competitive concern in program buying.[43]

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39 *See* Rosston/Topper Supplemental Decl. ¶ 23.

40 Comcast-TWC Public Interest Statement at 6-7, 25 (assuming divestitures of three million subscribers). This lowered national market share is plainly below the national 30 percent cable ownership cap that the Commission twice failed to empirically justify as creating buyer power concerns and posing a threat to the viability of unaffiliated programming networks. *See Comcast Corp. v. FCC*, 579 F.3d 1 (D.C. Cir. 2009); *Time Warner Entm't Co., L.P. v. FCC*, 240 F.3d 1126 (D.C. Cir. 2001).

41 Drs. Rosston and Topper calculated that the Charter systems that Comcast will acquire will account for less than [[ ]] percent of MVPD customers in large DMAs like New York, San Francisco-Oakland-San Jose, Houston, and Seattle-Tacoma. In other DMAs, the acquired Charter systems account for about [[ ]] percent or more of MVPD subscribers, including Dallas-Ft. Worth ([[ ]] percent), Boston ([[ ]] percent), Los Angeles ([[ ]] percent), Atlanta ([[ ]] percent), and other smaller DMAs. Rosston/Topper Supplemental Decl. ¶ 25 & n.36.

42 As Comcast and Drs. Rosston and Topper previously explained, the extent of Comcast's presence in a particular regional area, such as a DMA, is not particularly relevant to a competitive analysis. Comcast-TWC Public Interest Statement at 139; Rosston/Topper Declaration ¶¶ 180-81 ("DMAs are Nielsen constructs for rating measurement purposes and do not constitute relevant antitrust markets.").

43 Rosston/Topper Supplemental Decl. ¶ 24; *see also* Rosston/Topper Decl. ¶¶ 181-83.

Second, the Exchange Transaction will not increase Comcast's market power or ability or incentive to act anticompetitively toward unaffiliated local or regional networks. The modest increases in customers served by Comcast in certain geographic areas will have no effect on the demand or supply for unaffiliated programming, and will not increase Comcast's bargaining power.[44] Rather, as Drs. Rosston and Topper conclude, Comcast has, and will have, every incentive to carry the unaffiliated content that customers demand in order to remain competitive with other MVPDs, and, if anything, competition among providers has increased the bargaining power of regional programmers.[45]

No Harm to Advertising Market. Nor will the Exchange Transaction raise any competitive concerns in the sale of video advertising. Comcast, TWC, and Charter do not compete today, and thus do not represent competing choices for advertisers seeking to reach a particular cable household. The Exchange Transaction will not reduce choices for these advertisers; Comcast will continue to face the same number of advertising competitors in the acquired systems, including competition from other media such as online, radio, and print. And as Drs. Rosston and Topper explain, the overlap of the acquired Charter systems with NBC or Telemundo O&Os in a handful of DMAs poses no competitive concerns regarding the local or regional advertising market.[46]

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44 Rosston/Topper Supplemental Decl. ¶¶ 25-27.

45 *Id.* ¶¶ 27-34.

46 *Id.* ¶¶ 50-53.

III. THE EXCHANGE TRANSACTION IS FULLY CONSISTENT WITH THE COMMUNICATIONS ACT AND THE COMMISSION'S RULES.

The Exchange Transaction will not result in the violation of any provisions of the Communications Act or the Commission's rules. The combined company will be in full compliance with the Commission's various cross-ownership and multiple ownership rules, as well as the Commission's channel occupancy rule.[47]

The Charter cable systems that Comcast is acquiring are subject to a waiver of the Commission's integration ban rule that expires on April 18, 2015.[48] Out of an abundance of caution, and to the extent necessary, Comcast requests that the Commission grant Comcast the benefit of the *Charter Waiver Order* through April 18, 2016. This will give Comcast sufficient time to integrate such cable systems into Comcast's network and migrate such systems to a security solution that comports with Comcast's security plans across its footprint.

IV. CONCLUSION

For the foregoing reasons, the Exchange Transaction will serve the public interest. Applicants respectfully request that the Commission grant these applications expeditiously and provide for any other authority that the Commission deems necessary or appropriate to enable the Applicants to effectuate the proposed transaction.

June 4, 2014

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47 Comcast verified compliance by surveying the line-ups for each of the acquired cable systems involved in the Exchange Transaction and confirmed that the percentage of unaffiliated channels exceeds 60 percent of channels in all these systems.

48 *See Charter Commc'ns, Inc., Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion & Order, 28 FCC Rcd. 5212 (2013) ("*Charter Waiver Order*").

Appendix A

DMAs/Markets Involved in Divestiture Transactions*

Comcast DMAs/Markets to SpinCo	Pre-Merger TWC DMAs/Markets to Charter	Charter DMAs/Markets to Comcast
Bowling Green, KY	Bowling Green, KY	New York, NY
Champaign&Springfield-Decatur, IL	Columbus, OH	Boston, MA
Chicago, IL	Lexington, KY	Springfield-Holyoke, MA
Cincinnati, OH	Louisville, KY	Hartford & New Haven, CT
Dayton, OH	Northern, KY (Cincinnati DMA)	Other New York and New England
Detroit, MI	Evansville, IN	Los Angeles, CA
Evansville, IN	Northeast Ohio (Cleveland, Erie, PA)	Santa Barbara, CA
Flint-Saginaw-Bay City, MI	Mid Ohio (Columbus, Toledo)	Sacramento, CA
Ft. Wayne, IN	Southwest Ohio (Cincinnati, Dayton)	Other CA
Grand Rapids-Kalmzoo-B.Crk, MI	Ironton, OH	Atlanta, GA
Indianapolis, IN	Wisconsin	Macon, GA
Lafayette, IN	Evansville, IN (Non Insight)	Charlotte, NC
Lansing, MI	Terre Haute, IN	Raleigh, NC
Louisville, KY	Richmond, KY	Greenville, NC
Nashville, TN	New Wave West (KY)	Other NC
Paducah-Cape Girard-Harsbg, KY	New Wave East (KY)	Eugene / Other Oregon
South Bend-Elkhart, IN	Madison, KY	Seattle, WA
Terre Haute, IN	Dothan, AL	Yakima, WA
Toledo, OH		Spokane, WA
Birmingham (Ann, Tusc), AL		Dallas, TX
Chattanooga, TN		Houston, TX
Dothan, AL**		Norfolk, VA
Green Bay-Appleton, WI		Nashville, TN
Huntsville-Decatur (Flor), AL		Jackson, TN
Minneapolis-St. Paul, MN		Richmond, VA
Mankato, MN		Salisbury, MD
Mobile, AL		Memphis, TN
Tri-Cities, TN-VA		Knoxville, TN

* May include only a portion of the cable operator's existing service area in a particular DMA/market and in many instances a DMA/market includes communities beyond the primary state's borders.

**Includes Clayton, AL that is in the Columbus, GA DMA.

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An Economic Analysis of the Proposed Comcast Divestiture Transactions with Charter

June 4, 2014

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